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SEP 25 2014

OFFICE OF THE REGIONAL ADMINISTRATOR

September 24, 2014

BY CERTIFIED MAIL

David Applebaum, President
United Salvage Corp. of America, a/k/a Framingham Salvage Corp.
120 Waverly St.
Framingham, MA 01701
Certified Mail # 7012 2210 0001 3554 3031

Re: 60-Day Notice of Violations and Intent to File Suit Regarding Noncompliance
with Federal Clean Water Act's Industrial Stormwater Discharge Requirements:
120 Waverley Street, Framingham MA

Dear Mr. Applebaum:

This office represents Clean Water Action, a national non-profit citizens' organization working for prevention of pollution in the nation's waters, protection of natural resources, creation of environmentally-safe jobs and businesses, and empowerment of people to make democracy work. Clean Water Action has over one million members nationally, more than 50,000 of whom reside in Massachusetts.

We write to give notice that Clean Water Action intends to file a civil action in the United States District Court for the District of Massachusetts under Section 505 of the Federal Clean Water Act (the "Act") against United Salvage Corp. of America, a/k/a Framingham Salvage Corp. ("Framingham Salvage"). The subject of the action will be Framingham Salvage's unlawful discharge of stormwater from its scrap recycling and waste recycling facility at 120 Waverley Street, Framingham (the "Facility"). Stormwater runoff from the Facility is discharged into Beaverdam Brook via the Town of Framingham's municipal storm drain system. Beaverdam Brook is the largest tributary of Lake Cochituate.

Framingham Salvage submitted a Notice of Intent ("NOI") to be covered by EPA's reissued Multi-Sector General Permit for Stormwater Discharges Associated with Industrial

Activity (the "Permit") on May 2, 2012.¹ However, since then Framingham Salvage has had a pattern of exceeding EPA benchmark limits, particularly for zinc, iron, copper, aluminum, and Chemical Oxygen Demand ("COD"). For the most part, concentrations of these parameters in the company's stormwater samples have not significantly declined since 2011. The ongoing nature of these exceedances shows that the company is not taking adequate corrective action. Furthermore, the company has failed to perform required inspections and submit annual reports to EPA, as required by the Permit.

BACKGROUND

Activities that take place at industrial facilities, such as material handling and storage, are often exposed to the weather. As runoff from rain or snowmelt comes into contact with these materials, it picks up pollutants and transports them to nearby rivers, lakes, or coastal waters and tributaries thereto, including but not limited to storm sewer systems, wetlands, and other surface waters. Stormwater pollution is a significant source of water quality problems for the nation's waters.

The following are *some* of the activities, pollutant sources and pollutants that may be present with Framingham Salvage's scrap recycling and waste recycling processes:

Activity	Pollutant Source	Pollutant
Stockpiling and storage of materials (including loading and unloading)	Leaking of various fluids from used automotive engines, radiators, brake fluid reservoirs, transmission housings, other vehicle parts, and lead-acid from batteries; Deterioration/corrosion of materials.	PCBs; oil and grease; lubricants; paint pigments or additives; heavy metals; ionizing radioactive isotopes; transmission and brake fluids; fuel; battery acid; lead acid; antifreeze; benzene; chemical residue; heating oil; petroleum products; solvents; ionizing radioactive isotopes; infectious/bacterial contamination; asbestos; metals; total Kjeldahl nitrogen (TKN); oily wastes; chemical residue.

¹ The Stormwater Permit expired on September 29, 2013, but has been administratively continued by its own terms.

Material processing: Air pollution equipment (including incinerators, furnaces, wet scrubbers, filter houses, and bag houses)	Normal equipment operations that include the collection and disposal of filter bag material and ash, process wastewater from scrubbers, accumulation of particulate matter around leaking joint connections, malfunctioning pumps and motors (e.g., leaking gaskets, seals or pipe connections, leaking oil-filled transformer casings).	Hydraulic fluids; oils; fuels; grease and other lubricants; accumulated particulate matter; chemical additives; and PCBs from oil-filled electrical equipment.
Material processing: Combustion engines	Spills and/or leaks from fuel tanks; spills/leaks from oil/hydraulic fuel reservoirs; faulty/leaking hose connections; worn gaskets; leaking transmissions, crankcases, and brake systems (if applicable); leaking battery casings and/or corroded terminals.	Accumulated particulate matter; oil/Lubricants; gas/diesel fuel; fuel additives; antifreeze (ethylene glycol); battery acid; and products of incomplete combustion.
Material processing: Material handling systems (forklifts, cranes, and conveyors)	Spills and leaks from fuel tanks, hydraulic and oil reservoirs due to malfunctioning parts (e.g., worn gaskets and parts, leaking hose connections, and faulty seals). Damaged or faulty electrical switches (mercury filled). Damaged or leaking battery casings, including exposed corroded battery terminals. Damaged or worn bearing housings.	Hydraulic fluids; oils, fuels and fuel additives; grease and other lubricants; accumulated particulate matter; chemical additives; mercury; lead; battery acid.
Material processing: Stationary scrap processing facilities (balers, briquetters, shredders, shearers, compactors, engine block/ cast iron breakers, wire chopper, turnings crusher)	Leaks from hydraulic reservoirs, hose and fitting connections; worn gaskets; spills or leaks from fuel tanks; particulates/residue from scrap processing; malfunctioning pumps and motors (e.g., leaking gaskets, seals or pipe connections, leaking oil-filled transformer casings).	Heavy metals (e.g., zinc, copper, lead, cadmium, chromium) and hydraulic fluids; PCBs.

Material processing: Hydraulic equipment and systems, balers/briquetter, shredders, shearers, compactors, engine block/cast iron breaker, wire chopper, turnings crusher	Particulate/residue from material Processing; spills and/or leaks from fuel tanks; spills/leaks from oil/hydraulic fuel reservoirs; faulty/leaking hose connections/fittings; leaking gaskets.	Hydraulic fluids/oils; lubricants; particulate matter from combustion engines; PCBs (oil-filled electrical equipment components); heavy metals (nonferrous, ferrous).
Material processing: Electrical control systems (transformers, electrical switch gear, motor starters)	Oil leakage from transformers; leakage from mercury float switches; faulty detection devices.	PCBs; mercury (float switches); ionizing radioactive material (fire/smoke detection systems).
Material processing: Torch cutting	Residual/accumulated particulates.	Heavy metal fragments, fines.
Material handling systems	Spills and/or leaks from fuel tanks; spills/leaks from oil/hydraulic fuel reservoirs; faulty/leaking hose connections/fittings; leaking gaskets.	Accumulated particulate matter (ferrous and nonferrous metals, plastics, rubber, other); oil/lubricants; PCBs (electrical equipment); mercury (electrical controls); lead/battery acids.
Vehicle maintenance	Parts cleaning; waste disposal of rags; oil filters; air filters; batteries; hydraulic fluids; transmission fluids; brake fluids; coolants; lubricants; degreasers; spent solvents.	Gas/diesel fuel; fuel additives; oil/lubricants; heavy metals; brake fluids; transmission fluids; chlorinated solvents; arsenic.
Vehicle fueling	Spills and leaks during fuel transfer; spills due to "topping off" tanks; runoff from fueling areas; washdown of fueling areas; leaking storage tanks; spills of oils; brake fluids; transmission fluids; engine coolants.	Gas/diesel fuel; fuel additives; oil; lubricants; heavy metals.
Vehicle and equipment cleaning and washing	Washing and steam cleaning.	Solvent cleaners; oil/lubricants/additives; antifreeze (ethylene glycol).

Clean Water Action will ask the Court to ensure Framingham Salvage's future compliance with the Act, assess civil penalties in an appropriate amount,² award plaintiff its litigation costs, including attorney and expert fees, and award any other relief the Court deems appropriate. Clean Water Action's complaint will be filed a minimum of 60 days after the postmark date of this letter. This is a formal 60-day notice of intent to sue that is being served pursuant to 40 C.F.R., Part 135.

This notice is being provided by:

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FRAMINGHAM SALVAGE'S VIOLATIONS AND DATES OF VIOLATIONS

Framingham Salvage's violations are described below and are also set forth on a Table attached as Exhibit A hereto.³ The Complaint, when filed, will set forth additional days of violations that occur between the date of this letter and the date on which the Complaint is filed.

² The Statute authorizes the Court to assess a penalty of up to \$37,500 a day for each violation. See 33 U.S.C. § 1319(d) and 78 Fed. Reg. 66647 (Nov. 6, 2013).

³ Clean Water Action believes that violations have occurred on the dates identified in this letter and on Exhibit A, and not just on rain days. However, to the extent it is determined that rain days are relevant in determining the dates of violations, such rain dates through September 23, 2014 are set forth on Exhibit B hereto. The complaint, when filed, will set forth additional rain dates since September 23, 2014.

1. Failure to Implement Adequate Control Measures and Corrective Action

The Permit requires Framingham Salvage to ensure that its control measures minimize its stormwater pollutant discharges. Permit, Section 2.0 (pg. 12).⁴ Framingham Salvage must modify its control measures as expeditiously as practicable whenever it finds that they “are not achieving their intended effect of minimizing pollutant discharges.” *Id.*, Section 2.1. Corrective action must be taken whenever the results of monitoring show that “an exceedance of the 4 quarter average is mathematically certain.”⁵ Documentation of corrective action must be included in the annual report.⁶

As shown on the following tables, Framingham Salvage’s stormwater discharges have been many magnitudes above the Permit’s benchmark levels since it began monitoring in June 2010.⁷

⁴ “Minimize” means “reduce and/or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practice.” *Id.*

⁵ Permit, pg. 19.

⁶ *Id.*

⁷ In August 2011, Framingham Salvage changed the value it used to calculate its compliance with Zinc, Copper, and Aluminum benchmarks. This calls into question whether Framingham Salvage complied with the procedures in Appendix J of the permit, which requires the hardness level to be representative of the facility’s receiving water. See Permit, App. J. In any event, Framingham Salvage’s discharges have been in significant exceedance of EPA benchmarks for Zinc, Copper, and Aluminum, regardless of which hardness level applies.

TABLE OF MONITORING RESULTS SHOWING BENCHMARK EXCEEDENCES

Values that are bolded and underlined indicate that it is mathematically certain that the rolling annual average value will exceed or has exceeded the applicable benchmark.

<u>Collection Quarter</u>	<u>Collection Date</u>	<u>Zinc (.26 mg/L)</u>	<u>Iron (1.0 mg/L)</u>	<u>Copper (.0332 mg/L)</u>	<u>Aluminum (.75 mg/L)</u>	<u>COD (120 mg/L)</u>
July-Sept 2013	9/10/2013	<u>0.73</u>	<u>4.9</u>	<u>0.03</u>	<u>0.42</u>	<u>110</u>
April-June 2013	6/3/2013	<u>2.1</u>	<u>5.6</u>	<u>0.06</u>	<u>0.83</u>	<u>290</u>
Jan-March 2013	3/12/2013	<u>5.0</u>	<u>176</u>	<u>0.08</u>	<u>1.7</u>	<u>520</u>
Oct-Dec 2012	12/10/2012	<u>0.36</u>	<u>11</u>	<u>0.06</u>	<u>1.3</u>	<u>210</u>
July-Sept 2012	9/18/2012	<u>0.17</u>	<u>1.7</u>	<u>0.01</u>	<u>0.19</u>	<u>72</u>
April-June 2012	6/22/2012	<u>0.54</u>	<u>9.5</u>	<u>0.08</u>	<u>1.3</u>	<u>110</u>
Jan-March 2012	3/13/2012	<u>0.22</u>	<u>2.02</u>	<u>0.02</u>	<u>0.31</u>	<u>237</u>
Oct-Dec 2011	12/21/2011	<u>0.61</u>	<u>5.93</u>	<u>0.06</u>	<u>0.94</u>	<u>235</u>
July-Sept 2011	9/20/2011	<u>0.59</u>	<u>9.27</u>	<u>0.09</u>	<u>2.13</u>	<u>230</u>
	8/11/2011	<u>0.46</u>	<u>7.73</u>	<u>0.08</u>	<u>1.75</u>	<u>14100</u>
April-June 2011	4/1/2011	<u>2.3</u>	<u>7.6</u>	<u>0.03</u>	<u>0.4</u>	<u>370</u>
July-Sept 2010	9/28/2010	<u>1.6</u>	<u>14</u>	<u>0.11</u>	<u>1.6</u>	<u>160</u>
April-June 2010	6/1/2010	<u>0.51</u>	<u>11.4</u>	<u>0.03</u>	<u>0.87</u>	<u>0.29</u>

The presence and persistence of these exceedences show that the company has not complied with the requirement to “modify” its control measures “as expeditiously as practicable” to minimize its pollutant discharges.⁸

This Notice Letter alleges that Framingham Salvage failed to implement adequate control measures based on information presently available to Clean Water Action. If additional information regarding this violation becomes known to Clean Water Action in the future, the complaint may set forth some or all of such additional information.

2. Failure to Comply with the Permit’s Inspection and Reporting Requirements

Framingham Salvage is required to submit an annual report to EPA regarding the findings from its annual comprehensive site inspections and any corrective actions that may be required. If the corrective action has not been completed at the time of the report, a description must be given to the EPA regarding the status of the outstanding corrective actions.⁹ Framingham Salvage has not submitted annual reports to EPA as required by the Permit, a violation as set forth in Exhibit A.

Framingham Salvage is required to report certain information to EPA and the Massachusetts Department of Environmental Protection (“Mass DEP”) regarding its stormwater discharges in accordance with the provisions of Section 7 of the Permit. Among other things, Framingham Salvage must submit quarterly benchmark monitoring data to EPA. See Permit, Section 7.1.¹⁰

Benchmark monitoring reports were to have been filed with EPA 30 days following receipt of monitoring results. Framingham Salvage failed to comply with this requirement for the April – June quarter of 2010, the July – September quarter of 2010, the October – December quarter of 2010, the January – March quarter of 2011, the April – June quarter of 2011, the July – September quarter of 2011, the October – December quarter of 2011, the January – March quarter of 2012, the April – June quarter of 2012, the July – September quarter of 2012, the October – December quarter of 2012, the January – March quarter of 2013, the April – June

⁸ Moreover, the permit requires the company to implement corrective action as set forth in Section 3.2 whenever the average of 4 quarterly sample results exceeds an applicable benchmark. To the extent corrective action was taken by the company following the triggering of this event, such corrective action was inadequate, as shown by the fact that benchmark exceedences have persisted.

⁹ See Permit, Section 7.2, pg. 41.

¹⁰ If the data contains any exceedences of benchmarks, it must also be submitted to Mass DEP. See Permit, Section 9.1.2.4.

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quarter of 2013, the July – September quarter of 2013, and the October – December quarter of 2013, according to our records. These failures are set forth on Exhibit A.

To the extent additional reporting violations become known to Clean Water Action before the action is filed, the complaint will seek remedy for such additional reporting violations. To the extent additional reporting violations are learned through discovery in this action, the complaint will be amended to seek remedy for such additional reporting violations.

CONCLUSION

Clean Water Action believes this Notice of Violations and Intent to File Suit sufficiently states the basis for a civil action. During the 60-day notice period, we would be willing to discuss effective remedies for the violations noted in this letter that may avoid the necessity of litigation. If you wish to pursue such discussions, please have your attorney contact us within the next 20 days so that negotiations may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Nora J. Chorover

Attorney for

CLEAN WATER ACTION

cc: (by certified mail)

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EXHIBIT A

TABLE OF FRAMINGHAM SALVAGE'S VIOLATIONS

June 2010 to the Present

Requirements applicable to Sector N – Scrap Recycling and Waste Recycling Facilities

<u>Type of Violation</u>	<u>Parameter</u>	<u>Beginning Date of Violation</u>	<u>Earliest End Date of Violation</u>
Failure to Implement Adequate Measures	Zinc	July 31, 2010	Present
Failure to Implement Adequate Measures	Iron	July 31, 2010	Present
Failure to Implement Adequate Measures	Copper	July 31, 2010	Present
Failure to Implement Adequate Measures	Aluminum	July 31, 2010	Present
Failure to Implement Adequate Measures	COD	July 31, 2010	Present
Failure to Conduct Required Comprehensive Site Inspections	n/a	September 29, 2010	Present
Failure to Conduct Required Comprehensive Site Inspections		September 29, 2011	Present
Failure to Conduct Required Comprehensive Site Inspections		September 29, 2012	Present
Failure to Conduct Required Comprehensive Site Inspections		September 29, 2013	Present
Failure to Submit Annual Reports	n/a	November 13, 2010	Present
Failure to Submit Annual Reports		November 13, 2011	Present
Failure to Submit Annual Reports		November 13, 2012	Present
Failure to Submit Annual Reports		November 13, 2013	Present
Failure to Report Results of Benchmark Monitoring; April – June QTR 2010	All	July 1, 2010	August 1, 2012
Failure to Report Results of Benchmark Monitoring; July – Sept QTR 2010	All	October 28, 2010	August 1, 2012
Failure to Conduct Benchmark Monitoring; Oct – Dec QTR 2010	All	December 31, 2010	Present
Failure to Report Results of Benchmark Monitoring; Oct – Dec QTR 2010	All	January 31, 2011	Present
Failure to Conduct Benchmark Monitoring; Jan – Mar QTR 2011	All	March 31, 2011	Present
Failure to Report Results of Benchmark Monitoring; Jan – Mar QTR 2011	All	April 30, 2011	Present
Failure to Report Results of Benchmark Monitoring; April – June QTR 2011	All	May 1, 2011	August 1, 2012
Failure to Report Results of Benchmark Monitoring; July – Sept QTR 2011	All	September 11, 2011	August 1, 2012
Failure to Report Results of Benchmark Monitoring; July – Sept QTR 2011	All	October 20, 2011	August 1, 2012
Failure to Report Results of Benchmark Monitoring; Oct – Dec QTR 2011	All	January 21, 2012	August 1, 2012
Failure to Report Results of Benchmark Monitoring; Jan – Mar 2012	All	April 13, 2012	August 1, 2012
Failure to Report Results of Benchmark Monitoring; April – June QTR 2012	All	June 22, 2012	August 1, 2012

<u>Type of Violation</u>	<u>Parameter</u>	<u>Beginning Date of Violation</u>	<u>Earliest End Date of Violation</u>
Failure to Report Results of Benchmark Monitoring; July – Sept QTR 2012	All	October 18, 2012	November 15, 2012
Failure to Report Results of Benchmark Monitoring; Oct – Dec QTR 2012	All	January 10, 2013	May 15, 2013
Failure to Report Results of Benchmark Monitoring; Jan – Mar QTR 2013	All	April 12, 2013	May 15, 2013
Failure to Report Results of Benchmark Monitoring; April – June QTR 2013	All	July 3, 2013	November 6, 2013
Failure to Report Results of Benchmark Monitoring; July – Sept QTR 2013	All	October 10, 2013	November 6, 2013
Failure to Conduct Benchmark Monitoring; Oct – Dec QTR 2013	All	December 31, 2013	Present
Failure to Report Results of Benchmark Monitoring; Oct – Dec QTR 2013	All	January 31, 2014	Present

EXHIBIT B

DAYS BETWEEN
SEPTEMBER 23, 2009 AND SEPTEMBER 23, 2014
ON WHICH STORMWATER FROM FACILITY
DISCHARGED TO WATERS OF THE UNITED STATES

September 2009:	27, 28, 29
October 2009:	4, 7, 8, 10, 14, 16, 19, 24, 25, 28, 29
November 2009:	14, 15, 21, 24, 27, 28
December 2009:	1, 3, 4, 6, 9, 10, 14, 20, 21, 27, 28
January 2010:	1, 3, 18, 19, 26
February 2010:	11, 17, 24, 25, 26, 27
March 2010:	1, 14, 15, 16, 23, 24, 26, 29, 30, 31
April 2010:	10, 16, 17, 18, 19, 27, 28
May 2010:	8, 9, 19, 20, 27, 30
June 2010:	1, 2, 5, 7, 10, 13, 21, 23, 25
July 2010:	11, 17, 24, 25
August 2010:	6, 10, 16, 23, 24, 25, 26
September 2010:	4, 9, 17, 29
October 2010:	2, 4, 6, 7, 15
November 2010:	5, 6, 8, 9, 10, 17
December 2010:	2, 13, 23, 27
January 2011:	12, 13, 19, 20, 21, 22, 27
February 2011:	2, 3, 6, 8, 19, 25, 26, 27
March 2011:	1, 7, 12, 17, 22
April 2011:	1, 5, 13, 14, 17, 20, 24
May 2011:	5, 8, 15, 16, 18, 19, 20, 24
June 2011:	2, 10, 12, 18, 23, 24, 25, 26
July 2011:	9, 14, 24, 26, 30
August 2011:	7, 8, 10, 15, 16, 22, 28, 29
September 2011:	6, 7, 8, 9, 16, 21, 24, 29, 30
October 2011:	1, 4, 5, 13, 14, 15, 20, 27, 28, 30
November 2011:	11, 17, 18, 23, 24, 30
December 2011:	7, 8, 22, 23, 28
January 2012:	12, 13, 17, 20, 22, 24, 27, 28
February 2012:	25
March 2012:	1, 2, 3, 4
April 2012:	1, 2, 13, 23, 24
May 2012:	2, 9, 10, 15, 16, 22, 23, 30
June 2012:	2, 3, 5, 8, 13, 14, 23, 26
July 2012:	3, 4, 5, 19, 29
August 2012:	1, 6, 11, 16, 18, 29
September 2012:	5, 6, 9, 16, 19, 29

October 2012:	8, 11, 20, 29, 30, 31
November 2012:	8, 9, 14, 28
December 2012:	8, 10, 17, 18, 19, 22, 27, 28, 30
January 2013:	12, 16, 17, 31
February 2013:	9, 12, 20, 24, 25, 27, 28
March 2013:	7, 8, 9, 13, 19, 20
April 2013:	2, 11, 12, 13, 20
May 2013:	9, 10, 22, 24, 25, 26, 29
June 2013:	3, 4, 5, 6, 7, 8, 11, 12, 14, 18, 19, 28
July 2013:	12, 23, 24, 26, 27, 30
August 2013:	2, 10, 27
September 2013:	1, 2, 3, 13, 22
October 2013:	5, 6, 7, 8
November 2013:	8, 18, 23, 27, 28
December 2013:	2, 7, 10, 15, 18, 24, 30
January 2014:	3, 6, 7, 12, 15, 19, 22
February 2014:	4, 5, 6, 14, 16, 19, 20, 21, 22
March 2014:	13, 20, 30, 31
April 2014:	1, 5, 8, 9, 15, 16, 24, 27
May 2014:	1, 17, 23, 28, 31
June 2014:	4, 6, 14, 17, 26
July 2014:	4, 5, 14, 15, 16, 17, 28, 29
August 2014:	7, 13, 14, 15
September 2014:	1, 3, 7, 14, 21